

EMPLOYMENT DEVELOPMENT DEPARTMENT

Adopt Sections 2708(d)-1(a), 2708(d)-1(b) and 2708(d)-1(c) of Title 22, California Code of Regulations

MEDICAL PROVIDERS – PROFESSIONAL LICENSE VERIFICATION AND TIMELINES

Initial Statement of Reasons

BACKGROUND:

Senate Bill 1661 (Chapter 901, Statutes 2002) added the Family Temporary Disability Insurance (FTDI) benefit to the California Unemployment Insurance Code (code). The FTDI benefit, otherwise known as Paid Family Leave (PFL), expanded the scope of State Disability Insurance (SDI) to provide a wage replacement benefit so claimants can take leave to care for a seriously ill child, spouse, parent, registered domestic partner, or to bond with a new child. All SDI benefits issued by the Employment Development Department (Department) are paid out of the Disability Insurance (DI) fund. Code section 2701.5 requires the Department to issue the initial benefits payment to an eligible claimant within 14 days of receipt of the claimant's first properly completed disability claim. In addition, code section 2708(d) requires that claims of an individual who obtains care and treatment outside this state must be supported by a certificate of a treating medical provider licensed or certified by the state or foreign country in which the claimant receives care and treatment before a claim can be paid.

When licensing verification cannot be obtained within 14 days of claim submission, the claim is put in "suspense." This results in deferring the eligibility determination of the claim until license status is verified. Typically, license verification in California and other states can be obtained within three days by telephone or the states' respective web sites.

A license verification for a medical provider in a foreign country could take up to 120 days or more. Some verification requests never receive a response and claims are held in suspense indefinitely or sent notification informing the claimant that benefits have been denied. Licensing and regulatory agency processes and documentation required for a medical provider vary from one country to another. Each request for verification is researched and handled individually based on the official licensing authority rules, regulations and processes in the respective countries.

Recent changes in organizational responsibility for the medical provider license verification function and process enhancements over the past year have resulted in consistent processing of license verification requests. If a response to the verification request is not received within ninety (90) days, the disapproved request is returned to the examiner and appropriate action is taken on the claim by the examiner at that time.

However, there are currently no regulations that specify:

- The term a claim for SDI benefits can be held in suspense while the license of the treating medical provider is verified;
- The types of documentation acceptable to verify the status of a license; or
- That benefits will not be paid until acceptable license verification is received.

NECESSITY:

The proposed regulation language to the California Code of Regulations (CCR), title 22, will enhance the Department's ability to administer the SDI and PFL programs by providing the means to guard against potential fraud and abuse of the programs.

Section 2708(d)-1(a). Time Period for Suspending Claim While Awaiting Response to Request for License Verification of Medical Providers.

As the volume of verification requests for foreign medical providers increases and more claims are held in suspense beyond the statutory 14-day period specified in code section 2701.5, more claimants are likely to question and challenge the delays in payment of benefits. In the absence of regulatory authority to hold a claim in suspense beyond the mandated term, the Department is vulnerable to legal challenges for denying due process to appeal the lack of action on a claim.

CCR, title 22, section 2708(d)-1(a) is added to specify that the Department may hold a claim for SDI or PFL benefits in suspense for a period not to exceed ninety (90) days while awaiting a response to a request for license verification of a medical provider.

Section 2708(d)-1(b). Acceptable Documentation for License Verification of Medical Providers.

There is a need to specify acceptable forms of license verification for medical providers regulated by medical licensing authorities in order to address the potential for increased program fraud and abuse.

It is not feasible for the Department to identify and articulate in detail the appropriate licensing and verification processes for every foreign country. Rather, to address this problem, the Department is recommending criteria that is sufficiently broad but which has common consistencies and quality control measures that allow for a reasonable determination to ensure the medical provider certifying the SDI claim is duly licensed or certified in their respective country.

CCR, title 22, section 2708(d)-1(b) is added to define the types of information, documents, and certifications acceptable to substantiate with reasonable certainty that medical providers in the United States and in foreign countries are duly authorized or certified for purposes of certifying SDI or PFL claim forms.

Section 2708(d)-1(c). Withholding of Benefit Payments During License Verification Suspense Period.

There is a need to specify that no benefits will be paid and no action taken on a claim until a determination of acceptable license verification is received. This will avoid any confusion or expectation on the part of the claimant as to when benefit payments may begin.

CCR, title 22, section 2708(d)-1(c) is added to include language clarifying that benefit payments will not begin until acceptable license verification information or documentation is received. If an acceptable verification is not received within the 90-day period, the license verification request will be disapproved and returned to the claims examiner to take action on the claim as appropriate.

PLAIN ENGLISH CONFORMING STATEMENT:

The Department has drafted the proposed regulatory action in plain English pursuant to section 11346.2(a)(1) of the Government Code.

CONSIDERATION OF ALTERNATIVES:

In accordance with section 11346.2(b)(3)(B) of the Government Code, there were no reasonable alternatives to be considered by the Department.

SMALL BUSINESS IMPACT:

The proposed regulation will have no effect on small businesses because the license for a claim's certifying medical provider who is based in California can be validated within two days.

ECONOMIC IMPACT STATEMENT:

The Department does not anticipate this regulatory action will result in any costs to the federal government, to State government, to local county governments, to private individuals, or to businesses and small businesses. Thus, no costs were shown on the Economic and Fiscal Impact Statement.

The Department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states because the license for a claim's certifying medical provider who is based in California can be validated within two days. The Department has determined that the proposed regulations will not affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.
